

Jonah Burning Breast #2477853
Name and Prisoner/Booking Number

Pennington Co. Jail
Place of Confinement

3004 Outlook Circle
Mailing Address

Rapid City SD, 57701
City, State, Zip Code

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
Western DIVISION

Jonah Burning Breast,
(Full Name of Plaintiff)

5:23-cv-5021

Case No. 023-122

(To be supplied by the Clerk)

Plaintiff,

Officer 1 vs.
Officer 2,
Officer 3,
Officer 4,
(Full Name of Each Defendant)

CIVIL RIGHTS COMPLAINT
BY A PRISONER

Original Complaint
 First Amended Complaint
 Second Amended Complaint

Defendants.

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:
 - 28 U.S.C. § 1343(a)(3); 42 U.S.C. § 1983
 - 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
 - Other: (Please specify) _____

2. Name of Plaintiff: Jonah Burning Breast
Present mailing address: 3004 Outlook Circle Rapid City SD 57701
(Failure to notify the Court of any change of address may result in dismissal of this action.)

Institution/city where violation occurred: Rapid City SD, 57701

3. Name of first Defendant: Officer 1. The first Defendant is employed as: Peace Officer at Rapid City SD, Pennington county
(Position and Title) (Institution)
This Defendant is sued in his/her: individual capacity official capacity (check one or both)
Explain how this Defendant was acting under color of law: Using excessive force.

4. Name of second Defendant: Officer 2. The second Defendant is employed as: Peace Officer at Rapid City SD Pennington Co.
(Position and Title) (Institution)
This Defendant is sued in his/her: individual capacity official capacity (check one or both)
Explain how this Defendant was acting under color of law: Excessive use of force.

5. Name of third Defendant: Officer 3. The third Defendant is employed as: Peace Officer at Rapid City SD Pennington Co.
(Position and Title) (Institution)
This Defendant is sued in his/her: individual capacity official capacity (check one or both)
Explain how this Defendant was acting under color of law: Excessive use of force.

6. Name of fourth Defendant: Officer 4. The fourth Defendant is employed as: Peace Officer at Rapid City SD Pennington Co.
(Position and Title) (Institution)
This Defendant is sued in his/her: individual capacity official capacity (check one or both)
Explain how this Defendant was acting under color of law: Excessive use of force.

(If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.)

B. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? Yes No
2. If your answer is "yes," how many lawsuits have you filed? _____. Describe the previous lawsuits in the spaces provided below.
3. First prior lawsuit:
 - a. Parties to previous lawsuit:
Plaintiff: _____

Defendants: _____

b. Court: (If federal court, identify the district; if state court, identify the county.) _____

c. Case or docket number: _____

d. Claims raised: _____

e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?)

f. Approximate date lawsuit was filed: _____

g. Approximate date of disposition: _____

4. Second prior lawsuit:

a. Parties to previous lawsuit:

Plaintiff: _____

Defendants: _____

b. Court: (If federal court, identify the district; if state court, identify the county.) _____

c. Case or docket number: _____

d. Claims raised: _____

e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?)

f. Approximate date lawsuit was filed: _____

g. Approximate date of disposition: _____

5. Third prior lawsuit:

a. Parties to previous lawsuit:

Plaintiff: _____

Defendants: _____

b. Court: (If federal court, identify the district; if state court, identify the county.) _____

c. Case or docket number: _____

d. Claims raised: _____

e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?)

f. Approximate date lawsuit was filed: _____

g. Approximate date of disposition: _____

(If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.)

C. CAUSE OF ACTION

COUNT I

1. The following constitutional or other federal right has been violated by the Defendant(s): 4th Amendment Right, 8th Amendment Right

2. Count I involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)

| | | |
|---|--|---|
| <input type="checkbox"/> Medical care | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input checked="" type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

I was struck 3 times at the same time
all the while getting punched in the ear.
After getting thrown to the ground one of
the officers sat on my neck for a period of
time with his knee. Some time later while
recovering another officer dug his fingers
into the soles under my neck in a headlock position
afterwards he got me to get my head up.
I watched the videos one of the officers says
"you just got triple fisted". Also he wasnt in the
rights for pulling me over. There's people that
pulled over to record record they're there in the
videos. They also celebrated there at the end
brought about the whole scenario.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

Fists thrown onto my prongs bleed through
my shirt my ear swelled up still hurts after 2 months
where one has punched me.

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No
- Did you submit a request for administrative relief on Count I? Yes No
- Did you appeal your request for relief on Count I to the highest level? Yes No
- If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. I was told this is my first
Step in my complaint.

COUNT II

1. The following constitutional or other federal right has been violated by the Defendant(s): _____

Officer Ragan 4th Amendment Right
8th Amendment Right

2. Count II involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)

| | | |
|--|--|--|
| <input type="checkbox"/> Medical care | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input checked="" type="checkbox"/> Other: <u>Harassment</u> |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

Officer followed me for a period of time
pulled us over for "not stopping". Where we
did, there was also a car in front of him that
hadn't stopped yet from 4 blocks away come
for me.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

Injury correlates with count I

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No
- Did you submit a request for administrative relief on Count II? Yes No
- Did you appeal your request for relief on Count II to the highest level? Yes No
- If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. I was told this first step in
my complaint

COUNT III

1. The following constitutional or other federal right has been violated by the Defendant(s): _____

2. Count III involves: (Check **only one**; if your claim involves more than one issue, each issued should be stated in a different count)
 Medical care Access to the court Mail
 Disciplinary proceedings Retaliation Exercise of religion Property
 Excessive force by an officer Threat to safety Other: _____
3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

5. Administrative Remedies:

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No

b. Did you submit a request for administrative relief on Count III? Yes No

c. Did you appeal your request for relief on Count III to the highest level? Yes No

d. If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. _____

(If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.)

D. REQUEST FOR RELIEF

State briefly what you want the Court to do for you.

I'd like my case and all evidence dismissed as well as my other possession case without prejudice. As well as dismiss any costs from and during including my attorney's cost reimbursed in the amount of \$150,000.00 (Five hundred thousand dollars zero cents)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/21/23
DATE

Jeffrey B. Borchardt
SIGNATURE OF PLAINTIFF

(Name and title or paralegal, legal assistant, or other person who helped prepare this complaint)

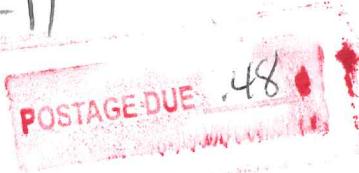
(Signature of attorney, if any)

(Attorney's address & telephone number)

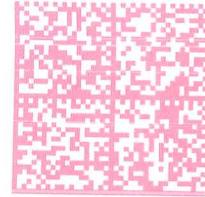
ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If needed, you may attach additional pages. The form, however, must be completely filled in to the extent applicable.

Tonah Burning Breast #2477853
Pennington County Jail CB3-11
307 Saint Joseph St
Rapid City SD
57701



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CORRECTION
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